IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1809 OF 2005

IN

SECOND APPEAL NO.279 OF 2005

Shri Ramesh Narhar Dharap .. Applicant

Versus

Sou Swati Vinayak Pathak and Anr.. Respondents

Mr.V.S.Gokhale for applicant

Mr.A.V.Anturkar h/f V.V.Bakre Shastry for respondents

CORAM : P.V.KAKADE, J.

DATE : 21st OCTOBER, 2005.

P.C.:

1. Heard learned counsel for both the parties.

2. The applicant has filed this application to seek directions to the respondent to deposit in the trial court the arrears of compensation from the date of the suit till today at the rate of Rs.1000/= p.m. and to go on depositing future arrears of compensation at the rate of Rs.1000/= p.m., failing which the stay granted

earlier be vacated.

3. In fact there is no basis for holding that mesne profits rent should be at the rate of Rs.1000/= p.m., nor it is supported by the judgments of the lower court. However, on the basis of the defendants own defence as it is reflected in his written statement that he was tenant and paying rent of Rs.465/= in cash. Under these circumstances without further elaboration I hold that the respondent is liable to pay the amount of mesne profits at the rate of Rs.465/= p.m. Hence the application is partly allowed to the extent that the defendant-respondent is directed to deposit in the trial court arrears of compensation from the date of the suit till today at the rate of Rs.465/= p.m. and shall continue to deposit the said amount at the said rate pending the appeal, failing which the Stay granted earlier shall stands vacated. With this direction the application stands disposed of with no order as to costs.